

saulted or harassed at a facility associated with the Agency or during the performance of a function associated with the Agency. If such person is an employee of an industrial contractor, the contracting officer for the relevant contract shall coordinate with the contractually identified representative for the prime contractor in a manner consistent with section 3532 of this title.

(2) Relation to existing regulations

The policies developed pursuant to this section for handling allegations of sexual harassment shall be in addition to the requirements of part 1614 of title 29, Code of Federal Regulations, or successor regulations.

(June 20, 1949, ch. 227, § 30, as added Pub. L. 118-31, div. G, title III, § 7339(b), Dec. 22, 2023, 137 Stat. 1052.)

Statutory Notes and Related Subsidiaries

REPORTING AND INVESTIGATING ALLEGATIONS OF SEXUAL ASSAULT AND SEXUAL HARASSMENT WITHIN THE CENTRAL INTELLIGENCE AGENCY

Pub. L. 118-31, div. G, title III, § 7339(a), Dec. 22, 2023, 137 Stat. 1051, provided that:

“(a) SENSE OF CONGRESS.—It is the sense of Congress that—

“(1) sexual assault and sexual harassment arise from, and are often indicative of, an environment where toxic, provocative, and sometimes significantly inappropriate behavior is tolerated;

“(2) when supervisors and senior leaders at headquarters and in the field are among the offenders and facilitate a work climate in which toxic and disrespectful behavior is tolerated, harassment and even assault will often go unaddressed and unpunished;

“(3) while establishing clear policies and procedures and enhancing training are necessary first steps toward protecting victims and establishing stronger internal mechanisms for preventing and responding to future sexual assault and sexual harassment within the Central Intelligence Agency, comprehensive culture change driven by Agency leadership will be necessary to accomplish impactful and enduring improvement; and

“(4) it is vital for the Central Intelligence Agency to maintain an independent and neutral person with whom all employees at all levels, supervisors and non-supervisors, may speak confidentially, informally, and off-the-record about work-related concerns or questions.”

IMPLEMENTATION AND REPORTING REQUIREMENTS

Pub. L. 118-31, div. G, title III, § 7339(e), Dec. 22, 2023, 137 Stat. 1061, provided that:

“(1) DEADLINE FOR IMPLEMENTATION.—Not later than 180 days after the date of the enactment of this Act [Dec. 22, 2023], the Director of the Central Intelligence Agency shall—

“(A) complete an Agency climate assessment—

“(i) which does not request any information that would make an Agency employee or an Agency employee’s position identifiable;

“(ii) for the purposes of—

“(I) preventing and responding to sexual assault and sexual harassment; and

“(II) examining the prevalence of sexual assault and sexual harassment occurring among the Agency’s workforce; and

“(iii) that includes an opportunity for Agency employees to express their opinions regarding the manner and extent to which the Agency responds to allegations of sexual assault and complaints of sexual harassment, and the effectiveness of such response;

“(B) submit to the appropriate congressional committees the findings of the Director with respect to the climate assessment completed pursuant to subparagraph (A);

“(C) establish and implement the policies required under sections 30 and 31 of the Central Intelligence Agency Act of 1949 [50 U.S.C. 3531 and 3532], as added by subsections (b) and (c), respectively;

“(D) consolidate the responsibilities of the Director under section 30 of the Central Intelligence Agency Act of 1949 [50 U.S.C. 3531] in a single Office, as determined by the Director; and

“(E) establish the Special Victim Investigator, as required by section 32 of the Central Intelligence Agency Act of 1949 [50 U.S.C. 3533], as added by subsection (d).

“(2) REPORT.—Not later than 90 days after the date of the enactment of this Act, and not less frequently than once every 90 days thereafter for 2 years, the Director of the Central Intelligence Agency shall submit to the appropriate congressional committees a report on the implementation of this section and the amendments made by this section. The Director shall personally review, approve, and submit each report under this paragraph on a nondelegable basis.

“(3) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection, the term ‘appropriate congressional committees’ means—

“(A) the Select Committee on Intelligence and the Subcommittee on Defense of the Committee on Appropriations of the Senate; and

“(B) the Permanent Select Committee on Intelligence and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.”

§ 3532. Reporting and investigation of allegations of sexual assault and sexual harassment

(a) Policies relating to restricted and unrestricted reporting of sexual assault and sexual harassment

(1) In general

The Director shall develop and implement policies, regulations, personnel training, and workforce education to establish and provide information about restricted reports and unrestricted reports of allegations of sexual assault and sexual harassment within the Agency in accordance with this subsection.

(2) Workforce education

Workforce education developed under paragraph (1) shall be designed to clearly inform Agency employees of the differences between restricted and unrestricted reporting of allegations of sexual assault and sexual harassment, and which individual or office within the Agency is responsible for receiving each type of report.

(3) Relationship to the Sexual Harassment/Assault Response and Prevention Office

To the extent consistent with preserving a victim’s complete autonomy, the policies, regulations, training, and messaging described in this subsection shall—

(A) encourage Agency employees to make restricted or unrestricted reports of sexual assault and sexual harassment to the Sexual Harassment/Assault Response and Prevention Office;

(B) encourage Agency employees to use the Sexual Harassment/Assault Response and Prevention Office as the primary point of contact and entry point for Agency em-

ployees to make restricted or unrestricted reports of sexual assault and sexual harassment;

(C) encourage Agency employees to seek the victim advocacy services of the Sexual Harassment/Assault Response and Prevention Office after reporting an allegation of sexual assault or sexual harassment, to the extent consistent with the victim's election; and

(D) encourage Agency employees and individuals who receive disclosures of sexual assault and sexual harassment to provide the report to, and receive guidance from, the Sexual Harassment/Assault Response and Prevention Office.

(b) Election

Any person making a report containing an allegation of a sexual assault or sexual harassment shall elect whether to make a restricted report or an unrestricted report. Once an election is made to make an unrestricted report, such election may not be changed.

(c) Unrestricted reports

(1) Assistance

A person who elects to make an unrestricted report containing an allegation of sexual assault or sexual harassment may seek the assistance of another employee of the Agency with taking the action required under paragraph (2).

(2) Action required

A person electing to make an unrestricted report containing an allegation of sexual assault or sexual harassment shall submit the report to the Sexual Harassment/Assault Response and Prevention Office. To the extent consistent with the person's election after consultation with the Sexual Harassment/Assault Response and Prevention Office, the Sexual Harassment/Assault Response and Prevention Office may facilitate the person's contact with any other appropriate Agency official or office, and make available to Agency employees the following:

(A) A list of physicians and mental health care providers (including from the private sector, as applicable) who have experience with the physical and mental health care needs of the Agency workforce.

(B) A list of chaplains and religious counselors who have experience with the needs of the Agency workforce, including information regarding access to the Chaplain Corps established under section 3527 of this title.

(C) Information regarding how to select and retain private attorneys who have experience with the legal needs of the Agency workforce, including detailed information on the process for the appropriate sharing of information with retained private attorneys.

(3) Rule of construction

The inclusion of any person on a list maintained or made available pursuant to subsection (c)(2) shall not be construed as an endorsement of such person (or any service furnished by such person), and neither the Sexual Harassment/Assault Response and Prevention

Office nor the Agency shall be liable, as a result of such inclusion, for any portion of compensable injury, loss, or damage attributable to such person or service.

(d) Restricted reports

(1) Process for making reports

A person who elects to make a restricted report containing an allegation of sexual assault or sexual harassment shall submit the report to the Sexual Harassment/Assault Response and Prevention Office.

(2) Action required

A restricted report containing an allegation of sexual assault or sexual harassment—

(A) shall be treated by the person who receives the report in the same manner as a communication covered by the privilege set forth in this section;

(B) shall not result in a referral to law enforcement or commencement of a formal administrative investigation, unless the victim elects to change the report from a restricted report to an unrestricted report;

(C) in a case requiring an employee reassignment, relocation, or other mitigation or protective measures, shall result only in actions that are managed in a manner to limit, to the extent possible, the disclosure of any information contained in the report;

(D) shall be exempt from any Federal or, to the maximum extent permitted by the Constitution, State reporting requirements, including the requirements under section 535(b) of title 28, section 3517(b)(5) of this title, relevant provisions of Executive Order 12333 (50 U.S.C. 3001 note; relating to United States intelligence activities), or successor order, Executive Order 13462 (50 U.S.C. 3001 note; relating to President's intelligence advisory board and intelligence oversight board), or successor order, title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.), title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.), and sections 791 and 794a of title 29, except when reporting is necessary to prevent or mitigate an imminent threat of serious bodily harm.

(3) Rule of construction

The receipt of a restricted report submitted under subsection (d) shall not be construed as imputing actual or constructive knowledge of an alleged incident of sexual assault or sexual harassment to the Agency for the purpose of the Agency's responsibility to exercise reasonable care to take immediate and appropriate corrective action to prevent and correct harassing behavior.

(e) Privileged communications with Agency employees

(1) In general

A victim shall be entitled to maintain and assert a privilege against disclosure of, and be able to prevent any other person from disclosing, any confidential communication made between the victim and any employee of the Sexual Harassment/Assault Response and Pre-

vention Office, if such communication was made for the purpose of facilitating advice or assistance to the victim in accordance with this section. A victim may consent to additional disclosures.

(2) When a communication is confidential

A communication is confidential for the purposes of this section if made in the course of the relationship between the victim and any employee of the Sexual Harassment/Assault Response and Prevention Office and not intended to be disclosed to third persons, other than those to whom disclosure is made in furtherance of the provision of advice or assistance to the victim or those reasonably necessary for such transmission of the communication.

(3) Maintenance of privilege

The privilege is maintained by the victim. A victim may authorize the Sexual Harassment/Assault Response and Prevention Office employee who received the communication to assert the privilege on his or her behalf, with confidentiality. The Sexual Harassment/Assault Response and Prevention Office employee who received the communication may assert the privilege on behalf of the victim. The authority of such Sexual Harassment/Assault Response and Prevention Office employee to so assert the privilege is presumed in the absence of evidence to the contrary.

(4) Exceptions

The privilege shall not apply to prevent limited disclosures necessary under the following circumstances:

- (A) When the victim is deceased.
- (B) When the Sexual Harassment/Assault Response and Prevention Office employee who received the communication has a reasonable belief that a victim's mental or emotional condition makes the victim a danger to any person, including the victim.
- (C) When the otherwise privileged communication clearly contemplates the future commission of a crime or breach of national security, or aiding any individual to commit or plan to commit what the victim knew or reasonable should have known to be a crime or breach of national security.
- (D) When disclosure of a communication is constitutionally required.

(5) Handling of exceptions

When the Sexual Harassment/Assault Response and Prevention Office employee determines that information requires an exception to the privilege, the Sexual Harassment/Assault Response and Prevention Office employee who received the communication will protect information pertaining to the facts and circumstances surrounding the underlying sexual assault or sexual harassment allegations to the greatest extent possible.

(f) Incident reports when victim or alleged perpetrator is an Agency employee

(1) Incident reporting policy

The Director shall establish and maintain a policy under which—

(A) the head of the Sexual Harassment/Assault Response and Prevention Office is required to submit a written incident report not later than 8 days after receiving an unrestricted report containing an allegation of sexual assault or sexual harassment; and

(B) each such incident report required under subparagraph (A) shall be provided to—

- (i) the Director of the Agency;
- (ii) the Chief Operating Officer of the Agency;
- (iii) the Special Victim Investigator; and
- (iv) such other individuals as the Director determines appropriate.

(2) Purpose

The purpose of an incident report required under paragraph (1) is—

- (A) to record the details about actions taken or in progress to provide the necessary care and support to the victim of the alleged incident;
- (B) to document the referral of the allegations to the appropriate investigatory or law enforcement agency; and
- (C) to provide initial formal notification of the alleged incident.

(3) Elements

Each incident report required under paragraph (1) shall include each of the following:

- (A) The time, date, and location of the alleged sexual assault or sexual harassment.
- (B) An identification of the type of offense or harassment alleged.
- (C) An identification of the assigned office and location of the victim.
- (D) An identification of the assigned office and location of the alleged perpetrator, including information regarding whether the alleged perpetrator has been temporarily transferred or removed from an assignment or otherwise restricted, if applicable.
- (E) A description of any post-incident actions taken in connection with the incident, including—
 - (i) referral to any services available to victims, including the date of each referral;
 - (ii) notification of the incident to appropriate investigatory organizations, including the organizations notified and dates of notifications; and
 - (iii) issuance of any personal protection orders or steps taken to separate the victim and the alleged perpetrator within their place of employment.
- (F) Such other elements as the Director determines appropriate.

(g) Common perpetrator notice requirement

(1) Unrestricted reports

Upon receipt of an incident report under subsection (f)(1) containing an allegation of sexual assault or sexual harassment against an individual known to be the subject of at least one allegation of sexual assault or sexual harassment by another reporter, the Special Victim Investigator shall notify each of the following of all existing allegations against the individual:

- (A) The Director of the Agency.
- (B) The Chief Operating Officer of the Agency.
- (C) The Sexual Harassment/Assault Response and Prevention Office.
- (D) If the individual is an Agency employee, the head of the directorate employing the individual and the first-level supervisor of the individual.
- (E) If the individual is an Agency contractor, the Acquisition Group Chief and the contracting officer for the relevant contract. For industrial contractor personnel, the contracting officer shall notify the contractually identified representative for the prime contractor.
- (F) The Inspector General of the Agency.
- (G) Such other individuals as the Director determines appropriate.

(2) Restricted reports

In the case of restricted reports under subsection (d), the Sexual Harassment/Assault Response and Prevention Office shall notify any victims known to have filed a restricted report against an individual known to be the subject of at least one unrestricted allegation of sexual assault or sexual harassment by another reporter that another allegation has been made against the same individual who is the alleged subject of the victim's report at the time of the victim's initial report or any time thereafter upon receipt of any subsequent unrestricted report under subsection (c) or a common perpetrator notice under paragraph (1) of this subsection.

(h) Applicability

The policies developed pursuant to this section shall apply to each of the following:

- (1) Any employee of the Agency.
- (2) Any person other than an Agency employee who alleges they were sexually assaulted or harassed at a facility associated with the Agency or during the performance of a function associated with the Agency.

(i) Records

(1) In general

The Director shall establish a system for the tracking and, in accordance with chapter 31 of title 44 (commonly known as the "Federal Records Act of 1950"), long-term temporary retention of all Agency records related to any investigation into an allegation of sexual assault or sexual harassment made in an unrestricted report, including any related medical documentation.

(2) Relation to privilege

Any Agency records created under the authority of this section are subject to the privileges described in this section. Routine records management activities conducted by authorized Agency personnel with respect to such records, including maintaining, searching, or dispositioning of records, shall not result in a waiver of those privileges.

(3) Applicability to FOIA

This section shall constitute a withholding statute pursuant to section 552(b)(3) of title 5

with respect to any information that may reveal the identity of a victim of sexual assault or sexual harassment, or any information subject to the privileges described in this section.

(j) Relationship to the Office of Equal Employment Opportunity

In the case of a restricted report of sexual harassment, such report shall not result in a referral to the Office of Equal Employment Opportunity, unless the victim elects to change the report from a restricted report to an unrestricted report. In the case of an unrestricted report, the Special Victim Investigator, the Office of Equal Employment Opportunity, law enforcement, or any other appropriate investigative body, or any appropriate combination thereof, may investigate the unrestricted report, as appropriate. Policies and procedures developed pursuant to this section are intended to offer victims options in addition to the process described in part 1614 of title 29, Code of Federal Regulations, or successor regulations.

(k) Definitions

In this section:

(1) Report

The term "report" means a communication—

- (A) by a victim;
- (B) that describes information relating to an allegation of sexual assault or sexual harassment;
- (C) to an individual eligible to document an unrestricted or restricted report; and
- (D) that the victim intends to result in formal documentation of an unrestricted or restricted report.

(2) Victim

The term "victim" means a person who alleges they have suffered direct physical or emotional harm because they were subjected to sexual assault or sexual harassment.

(June 20, 1949, ch. 227, §31, as added Pub. L. 118-31, div. G, title III, §7339(c), Dec. 22, 2023, 137 Stat. 1054.)

Editorial Notes

REFERENCES IN TEXT

Executive Order 12333, referred to in subsec. (d)(2)(D), is Ex. Ord. No. 12333, Dec. 4, 1981, 46 F.R. 59941, which is set out as a note under section 3001 of this title.

Executive Order 13462, referred to in subsec. (d)(2)(D), is Ex. Ord. No. 13462, Feb. 29, 2008, 73 F.R. 11805, which is set out as a note under section 3001 of this title.

The Civil Rights Act of 1964, referred to in subsec. (d)(2)(D), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241. Title VII of the Act is classified generally to subchapter VI (§2000e et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

The Age Discrimination in Employment Act of 1967, referred to in subsec. (d)(2)(D), is Pub. L. 90-202, Dec. 15, 1967, 81 Stat. 602, which is classified generally to chapter 14 (§621 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 29 and Tables.

The Americans with Disabilities Act of 1990, referred to in subsec. (d)(2)(D), is Pub. L. 101-336, July 26, 1990, 104 Stat. 327. Title I of the Act is classified generally to

subchapter I (§12111 et seq.) of chapter 126 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

§ 3533. Special Victim Investigator

(a) Establishment

The Director shall establish in the Office of Security a Special Victim Investigator, who shall be authorized to investigate or facilitate the investigation of unrestricted reports containing allegations of sexual assault and sexual harassment. The person appointed as the Special Victim Investigator shall be an appropriately credentialed Federal law enforcement officer and may be detailed or assigned from a Federal law enforcement entity. No individual appointed as the Special Victim Investigator may, at the time of such appointment, be a current employee of the Central Intelligence Agency.

(b) Responsibilities

The Investigator shall—

(1) at the election of a victim (as defined in section 3532(k) of this title), be authorized to conduct internal Agency inquiries, investigations, and other fact-finding activities related to allegations of sexual harassment, which may be separate and in addition to any inquiry or investigation conducted by the Office of Equal Employment Opportunity;

(2) conduct and manage internal Agency inquiries, investigations, and other fact-finding activities related to specific allegations of sexual assault;

(3) testify in a criminal prosecution in any venue, where appropriate;

(4) serve as the case agent for a criminal investigation in any venue, where appropriate;

(5) facilitate engagement with other law enforcement relating to such allegations, where appropriate, including coordinating on the matter and any related matters with other Federal, State, local, and Tribal law enforcement agencies, as necessary and appropriate, pursuant to regulations, requirements, and procedures developed in consultation with the Federal Bureau of Investigation, the Department of State's Diplomatic Security Service, or other Federal, State, local, or Tribal law enforcement authorities, for any such inquiries, investigations, or other fact-finding activities;

(6) develop and implement policies and procedures necessary for the Special Victim Investigator or any law enforcement partner to conduct effective investigations and also protect sensitive information;

(7) serve as the primary internal investigative body in the Agency for allegations of sexual assault, except that, in the case of an allegation of a sexual assault involving an employee of the Office of Security, the Special Victim Investigator shall coordinate with the Inspector General or appropriate criminal investigators employed by a Federal, State, local, or Tribal law enforcement entity, as necessary, to maintain the integrity of the investigation and mitigate potential conflicts of interest;

(8) establish and coordinate clear policies regarding which agency should take the lead on

conducting, or be the lead in coordinating with local law enforcement when applicable, investigations of sexual assault and sexual harassment overseas; and

(9) sharing information with the Sexual Harassment/Assault Response and Prevention Office, including providing a copy of materials related to investigations with such redactions as deemed necessary, to facilitate the support and advocacy of such Office for victims of alleged sexual assault or sexual harassment.

(c) Timeframe for investigations

The Special Victim Investigator shall—

(1) ensure that any Special Victim Investigator investigation into an allegation of a sexual assault or sexual harassment contained in an unrestricted report submitted under section 3532 of this title is completed by not later than 60 days after the date on which the report is referred to the Special Victim Investigator; and

(2) if the Special Victim Investigator determines that the completion of an investigation will take longer than 60 days—

(A) not later than 60 days after the date on which the report is referred to the Special Victim Investigator, submit to the Director a request for an extension that contains a summary of the progress of the investigation, the reasons why the completion of the investigation requires additional time, and a plan for the completion of the investigation; and

(B) provide to the person who made the report and the person against whom the allegation in the report was made notice of the extension of the investigation.

(June 20, 1949, ch. 227, §32, as added Pub. L. 118-31, div. G, title III, §7339(d), Dec. 22, 2023, 137 Stat. 1060; amended Pub. L. 118-159, div. F, title LXIII, §6311, Dec. 23, 2024, 138 Stat. 2478.)

Editorial Notes

AMENDMENTS

2024—Subsec. (a). Pub. L. 118-159 inserted at end “No individual appointed as the Special Victim Investigator may, at the time of such appointment, be a current employee of the Central Intelligence Agency.”

CHAPTER 47—NATIONAL SECURITY AGENCY

Sec.	
3601.	Short title.
3602.	Director of the Agency and Director of Compliance.
3603.	Repealed.
3604.	Additional compensation.
3605.	Disclosure of Agency's organization, function, activities, or personnel.
3606.	Repealed.
3607.	Support for activities and personnel outside the United States.
3608.	Language training and cryptologic linguist reserve programs.
3609.	Enhancement of security authorities.
3610.	Senior Cryptologic Executive Service.
3611.	Cryptologic research grant program.
3612.	Availability of appropriations.
3613.	Misuse of Agency name, initials, or seal.
3614.	Louis Stokes Educational Scholarship Program.
3615.	Repealed.